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SUBJECT: UN INTERNAL JUSTICE SYSTEM UNDER THE GAVEL

REF: USUN NEW YORK 1082

¶1. Summary: On November 20, the UN General Assembly (UNGA) Fifth Committee (Administrative and Budgetary) discussed mechanisms for resolving staff employment grievances. The Committee received reports from Under Secretary-General for Management Angela Kane (A/62/748, A/62/782, A/63/314, and A/63/211), Ombudsman Johnston Barkat (A/63/283), and the Chairman of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) Susan McLurg (A/63/545). Despite an impending deadline and the need to fill a number of key positions, all parties remain committed to implementing the new system by January 1. Responding to criticism from UN Staff Union President Stephen Kisambira, Kane said "We're almost there." This is part of a larger plan of reforms in human resource management (reftel). The Committee heard interventions from representatives of Antigua and Barbuda (on behalf of the G-77 and China), France (on behalf of the EU), Australia (on behalf of CANZ), Mexico (on behalf of the Rio Group), Switzerland (also on behalf of Liechtenstein), India, the United States, Argentina, Japan, and Russia. End Summary.

¶2. Kane recounted that UNGA resolution 62/228 approved a new system for resolution of internal disputes, which the UN calls administration of justice. The new system will emphasize informal dispute resolution through an expanded Office of the Ombudsman. Formal mechanisms will include the UN Dispute Tribunal (UNDT) and the UN Appeals Tribunal. A new Mediation Division will provide both informal and formal services to employees and managers. Last year UNGA requested the Secretariat to draft UNDT operating procedures and transition proposals by July 1 of this year, a target now more than four months overdue.

¶3. Although the existing disciplinary framework was designed for HQ employees, Barkat reported that most cases emanate from peacekeeping missions (39 percent) and field offices (34 percent). Further complicating matters, the caseload has more than doubled over the last year. Outmoded procedures and increased demand have resulted in a tremendous backlog just as the UN is preparing to make the transition to the new system.

¶4. The new internal justice system is widely anticipated and emphasizes informal dispute resolution. To forestall more protracted and expensive conflicts, the ombudsman will augment efforts to facilitate informal dispute resolution. The full range of delegations expressed support for these methods.

¶5. The UN Staff Union is concerned about the still-unfilled positions required to staff UNDT. Kisambira criticized the Secretariat for "either indifference or incompetence or just plain foot-dragging", and offered support for expedited or interim appointments. (Note: The G-77 insists that the final appointment of judges to UN tribunals should continue to be UNGA's prerogative. End note.) The representatives of Antigua and Barbuda, Mexico, and India regret the delays, but renewed their commitment to implementing the new system on schedule. Kane averred that the Secretariat is behind

schedule, but requested more patience as the Secretariat hurries to organize and staff the UNDT.

¶6. Some major transition issues are yet to be resolved. Kane proposed transferring pending cases to the UNDT and assigning three additional judges for the first year. The Japanese delegate suggested maintaining the existing system until all pending cases have cleared, echoing the well-known U.S. position. In either case, McLurg urged a concentrated effort to clear the case backlog.

¶7. The Japanese delegate expressed support for many of the proposed reforms, but urged budgetary caution. To control costs, he suggested a restriction on damages awarded. The Japanese also advocated negotiation of a standard cost-sharing arrangement with agencies, funds, and programs outside the Secretariat.

¶8. The United States expressed support for the timely transition to the new system. Full USDel remarks are available at the Mission's web site, www.usunnewyork.usmission.gov.

Wolff